

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CIVIL REVISION PETITION Nos.960 and 1115 of 2018

COMMON ORDER:

These two Civil Revision Petitions, under Article 227 of the Constitution of India, are filed by the petitioners against the Orders dt.18.01.2018 in I.A.No.1086 and 1087 of 2017 passed by XX Junior Civil Judge, City Civil Court, Hyderabad, dismissing the petitions filed under Order XVIII Rule 17 and Section 151 of CPC to recall Pw.1 for further cross examination by reopening the suit for the purpose of confronting certain documents to the witness and to mark the same in the cross examination.

The allegations made in the affidavits filed in support of the petitions are identical. It is alleged that the respondents herein/plaintiffs have filed suit with all false and baseless grounds and Pw.1 was examined in support of such false claim and the petitioner herein/defendant was examined as Dw.1 and at the time of his evidence, he filed several documents including certified copy of Chief and Cross examination of Smt K. Padmavathi, who was examined as Rw.2 in R.C.No.481 of 2009 and the said document is very much important, but the counsel for the respondents herein/plaintiffs raised an objection for marking the same, consequently, the same could not be marked and prayed to recall Pw.1 for further cross examination to confront the document i.e., deposition of Smt K. Padmavathi, by reopening the suit.

The respondents/plaintiffs filed Counter denying the material allegations *inter alia* contending that the petitions filed by the petitioner herein/defendant are not maintainable and that the petitioner approached the Court with unclean hands. In the cross examination of Dw.1, an objection was raised by the counsel for plaintiff for marking the

said deposition i.e., Smt K. Padamavathi, as the deponent was alive, and, therefore, the trial Court refused to mark the document and after completion of entire evidence, the suit was posted for further evidence of defendant and on 20.11.2017 at request of learned counsel for the petitioner, the suit was posted to 04.12.2017 and on 04.12.2017, the petitioner again sought time for adducing further evidence and as such the suit was posted to 18.12.2017, since no further evidence was adduced, the evidence of the defendant was closed and posted the suit on 22.12.2017 for hearing. At this stage, these two petitions were filed to protract the proceedings for some more time with an oblique motive and that there are no grounds to recall Pw.1 for further cross examination by reopening the suit. It is also contended that Pw.1 underwent heart surgery on 12.12.2017 at Poulomi Hospital at A.S.R.Nagar, Secunderabad, and the Doctor advised her to take bed rest for six months and even if the witness is recalled, it is difficult for her to appear before the Court and prayed for dismissal of the petitions.

Upon hearing both the counsel, the trial Court passed cryptic Orders consisting of six lines, which runs as follows:

“ These petitions are filed to reopen the suit recalling plaintiff evidence and for cross examination. Counter affidavit filed as not maintainable. Heard both sides. Perused the record, Pw.1 was subjected to lengthy cross examination and now case is posted for arguments after taking adjournments for arguments, these petitions filed after thought to prolong the suit which is eviction suit. Hence, petitions are devoid of merits and accordingly, it is dismissed. For arguments, call on 24.01.2018”.

The Orders of the trial Court is consisting of six lines and bereft of any reasoning. When the Order is not reasoned, the Order cannot be sustained under law. What an Order shall contain normally is not specified anywhere but the order must be reasoned one since the judgment or order in its final shape usually contains in addition to formal parts:

“ (i) A preliminary or introductory part, showing the form of the application upon which it was made, the manner in which and the place at which, the writ or other originating process was served, the parties appearing any consent, waivers, undertakings or admissions given or made, so placed as to indicate whether they relate to the whole judgment or order or only part of it, and a reference to the evidence upon which the judgment or order is based; and

(ii) A substantive or mandatory part, containing the order made by the Court” as has been said in Halsbury's Laws of England (4th Edition, Volume 26 P. 260).

Thus, in view of the requirements of an order or judgment referred above, order pronounced on the bench shall contain the reasoning since the judge speaks with authority by his judgment. The strength of a judgment lies in its reasoning and it should therefore be convincing. Clarity of exposition is always essential. Dignity, convincingness and clarity are exacting requirements but they are subservient to what, after all, is the main object of a judgment, which is not only to do but to seem to do justice. In addition to these cardinal qualities of a good judgment, there are the attributes of style, elegance and happy phrasing which are its embellishments. In the words of Former Chief Justice of the Supreme Court Sabyasachi Mukharji, the requirement of a good judgment is reason. Judgment is of value on the strength of its reasons. The weight of a judgment, its binding character or its persuasive character depends on the presentation and articulation of reasons. Reason, therefore, is the soul and spirit of a good judgment. Equity, justice and good conscience are the hallmarks of judging. One who seeks to rely only on principles of law, and look only for the decided cases to support the reasons to be given in a case or acts with bias or emotions, loses rationality in deciding the cases. The blind or strict adherence to the principles of law sometimes carries away a judge and deviates from the objectivity of judging issues brought before him as per the judgment of this Court in *M/s. Leela*

*Enterprises, rep. by its Proprietor, K. Surender and another v. Smt Kamar Sultana @Kamar Hassan*¹.

The Apex Court in *Joint Commissioner of Income Tax, Surat, Vs. Saheli Leasing and Industries Limited* (Civil Appeal No. 4278 of 2010) laid down the following A to G guidelines indicating what the judgment should contain:

a) It should always be kept in mind that nothing should be written in the judgment/order, which may not be germane to the facts of the case; It should have a co-relation with the applicable law and facts. The ratio decidendi should be clearly spelt out from the judgment/order.

b) After preparing the draft, it is necessary to go through the same to find out, if anything, essential to be mentioned, has escaped discussion."

c) The ultimate finished judgment/order should have sustained chronology, regard being had to the concept that it has readable, continued interest and one does not feel like parting or leaving it in the midway. To elaborate, it should have flow and perfect sequence of events, which would continue to generate interest in the reader.

d) Appropriate care should be taken not to load it with all legal knowledge on the subject as citation of too many judgments creates more confusion rather than clarity. The foremost requirement is that leading judgments should be mentined and the evolution that has taken place ever since the same were pronounced and thereafter, latest judgment, in which all previous judgments have been considered, should be mentioned. While writing judgment, psychology of the reader has also to be borne in mind, for the perception on that score is imperative.

e) Language should not be rhetoric and should not reflect a contrived effort on the part of the author.

f) After arguments are concluded, an endeavour should be made to pronounce the judgment at the earliest and in any case not beyond a period of three months. Keeping it pending for long time, sends a wrong signal to the litigants and the society.

g) It should be avoided to give instances, which are likely to cause public agitation or to a particular society. Nothing should be reflected in the same which may hurt the feelings or emotions of any individual or society.

¹ 2017(5) ALT 75

In view of the law laid down by the Courts consistently, the order must be reasoned and it shall contain the minimum requirement as stated above, but the trial Court did not record any reason for arriving such conclusion muchless sufficient reason. In the absence of any reason for arriving such conclusion, the Order cannot be sustained under law.

When the Orders passed by the trial Court did not satisfy the requirements as aforesaid, the Orders 18.01.2018 passed by the trial Court are unsustainable and consequently, they are liable to be set aside while remanding them to the trial Court to pass appropriate Orders afresh.

Accordingly, these two Civil Revision Petition are allowed setting aside the Order dt. 18.01.2018 in I.A.No.1086 and 1087 of 2018 passed by XX Junior Civil Judge, City Civil Court, Hyderabad, while remanding the matters to the trial Court to pass appropriate Orders afresh, keeping in view the law declared by this Court and Apex Court in *M/s. Leela Enterprises's case* and *Joint Commissioner of Income Tax, Surat's case referred supra*.

As a sequel, miscellaneous applications pending, if any, in these cases, shall stand closed.

M. SATYANARAYANA MURTHY, J

Dt: 02-03-2018

eha

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CIVIL REVISION PETITION Nos.960 and 1115 of 2018

Dt. 02.03.2018

eha

